IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO. 100 OF 2003

IN

SUMMARY SUIT NO. 6775 OF 1999

The Paper Products Ltd. .. Plaintiffs

versus

Urisan Cosmetics Ltd. & Anr. .. Defendants

...

Mr.K.R. Belosay for the plaintiff.

CORAM : D.G. KARNIK,J.

DATED : 1st March 2005.

P.C.:

1. Heard the learned counsel for the plaintiff. The learned counsel for the plaintiff states that the suit against defendant has already been decreed for non compliance of the order dated 23rd April 2002 passed in Summons for Judgement no.129 of 2000. This Summons for Judgement is taken out against defendant no.2.

2. The defendant no.1 is a Company incorporated and registered under the Companies Act 1956 and the defendant no.2 is its Director. By a memorandum of understanding dated 31st March 1999, the defendant no.1 agreed that it is liable to pay to the plaintiff the suit amount and issued 12 cheques mentioned in the said memorandum. The memorandum is signed by defendant no.2 in the capacity as the director and authorised signatory of the defendant no.1. The cheques have also been signed by defendant no.2 in the capacity as director and authorised signatory of the defendant no.1. The perusal of the plaint as well as the documents annexed to the plaint does not show that the defendant no.2 is personally liable. The liability was of defendant no.1 and defendant no.2 had signed the memorandum and cheques only in capacity as a director. He is not shown to be personally liable. Hence, Summons for Judgement is dismissed against defendant no.2.

D.G. KARNIK, J